

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

SHARON CHENG, CRISTINA DIAS,
RHONDA SANFILIPO, BRUCE PULEO,
ZINA PRUITT, RON ZIMMERMAN, TINA
FENG, ROBERT HAKIM, BERNADETTE
GRIMES, MARLENE RUDOLPH,
PATRICIA BARLOW, TERESA
EDWARDS, DIEU LE, CHRIS BOHN,
DANIEL DEWEERDT, BETTY DENDY,
KRISTI ROCK, JENNIFER CHALAL,
JOHN TORRANCE, and MICHAEL
MITCHELL individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

TOYOTA MOTOR CORPORATION,
TOYOTA MOTOR NORTH AMERICA,
INC., DENSO CORPORATION and DENSO
INTERNATIONAL AMERICA, INC.,

Defendants.

Case No.: 1:20-cv-00629-WFK-CLP

**PLAINTIFFS' MEMORANDUM IN
SUPPORT OF THEIR SECOND
SUPPLEMENTAL UPDATED MOTION
FOR THE APPOINTMENT OF
INTERIM CLASS COUNSEL**

Served on all parties via ECF on **September 30, 2020**

Plaintiffs Sharon Cheng, Cristina Dias, Rhonda Sanfilipo, Bruce Puleo, Zina Pruitt, Ron Zimmerman, Tina Feng, Robert Hakim, Bernadette Grimes, Marlene Rudolph, Patricia Barlow, Teresa Edwards, Dieu Le, Chris Bohn, Daniel Deweerdt, Betty Dendy, Kristi Rock, Jennifer Chalal, John Torrance, and Michael Mitchell ("Plaintiffs" or the "Consolidated Plaintiffs"), respectfully submit this Memorandum in Support of their Second Supplemental Updated Motion for the Appointment of Interim Class Counsel pursuant to Fed. R. Civ. P. 23(g)(3) with Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. ("Beasley Allen") as lead interim class counsel,

specifically Dee Miles and Demet Basar as co-lead interim class counsel, and a Plaintiffs' Steering Committee ("PSC") made up of Finkelstein & Krinsk LLP ("Finkelstein & Krinsk"), specifically John Nelson, Spector Roseman & Kodroff, P.C. ("Spector Roseman"), specifically John Macoretta and Jeffrey Spector, Wolf Haldenstein Adler Freeman & Herz LLP ("Wolf Haldenstein"), specifically Malcolm T. Brown and Kate McGuire, and Hagens Berman Sobol Shapiro LLP ("Hagens Berman"), specifically Thomas E. Loeser and Jerrod C. Patterson (the "Proposed Class Counsel").

The relief sought herein differs from the relief sought in the first supplemental updated Motion (ECF No. 48) because it seeks the appointment of the updated leadership structure set forth above. Specifically, this Motion seeks to add the firm of Hagens Berman to the PSC.

I. BACKGROUND

After Plaintiff Cheng filed her original complaint on February 4, 2020, seven other cases were filed in different districts across the country: *Tina Feng v. Toyota Motor North America, Inc., et al.*, Case No. 20-CV-0534-CAB-BLM (S.D. Cal.), filed in the Southern District of California on March 20, 2020; *Jennifer Chalal v. Toyota Motor Corporation, et al.*, Case No. 2:20-cv-01867 (E.D. Pa.), filed in the Eastern District of Pennsylvania on April 10, 2020; *Gendron et al. v. Toyota Motor Corporation et al.*, Case No. 8:20-cv-00775 (C.D. Cal.), filed in the Central District of California on April 20, 2020; *Shoemaker v. Toyota Motor North America, Inc., et al.*, No. 20-cv-00869 (M.D. Pa.), filed in the Middle District of Pennsylvania on May 28, 2020; *Tordjman v. Toyota Motor North America, Inc., et al.*, No. 20-cv-80871 (S.D. Fla.), filed in the Southern District of Florida on May 29, 2020; *Zuo v. Toyota Motor North America, Inc., et al.*, No. 20-cv-06607 (D.N.J.), filed in the District of New Jersey on May 29, 2020; and *Marques, et al. v. Toyota*

Motor North America, Inc., et al., No. 20-cv-00665 (E.D. Va.), filed in the Eastern District of Virginia on June 12, 2020.¹

The *Cheng* plaintiffs coordinated early with the *Feng*, *Chalal*, and *Gendron* plaintiffs, who subsequently transferred each of their cases to the Eastern District of New York, which the Court then consolidated with this action for all purposes. See June 26, 2020 Electronic Order Granting ECF No. 55 and July 31, 2020 Electronic Order Granting ECF No. 61. The *Shoemaker*, *Tordjman*, *Zuo*, and *Marques* plaintiffs, however, filed an application with the Judicial Panel on Multidistrict Litigation (“JPML”) to centralize all eight cases in the Eastern District of Michigan pursuant to 28 U.S.C. § 1407. ECF No. 57. In an effort of collaboration that best protects the interests of the Classes and preserves judicial and party resources, counsel for the Consolidated Plaintiffs and counsel for the plaintiffs in *Shoemaker*, *Tordjman*, *Zuo*, and *Marques*, Hagens Berman, coordinated informally to combine efforts and resources in the prosecution of this matter. Accordingly, the *Shoemaker*, *Tordjman*, *Zuo*, and *Marques* plaintiffs withdrew their JPML application (ECF No. 79) and moved to transfer their respective cases to the Eastern District of New York. *Shoemaker* and *Zuo*, respectively, were transferred to this District on September 15, 2020 (see Declaration of Dee Miles (“Miles Declaration”), Exhibits A and B), and *Tordjman* was transferred on September 21, 2020.² See *id.*, Exhibit C. The fourth action, *Marques*, has not yet been transferred to this District.

¹ Plaintiffs are aware of one other filed case, *Ruis et al. v. Toyota Motor Corporation et al.*, 20-cv-12600-ES-CLW (D.N.J.), filed in the District of New Jersey on September 11, 2020, which was voluntarily dismissed on September 23, 2020.

² *Shoemaker*, *Zuo*, and *Tordjman* have been assigned new case numbers in this District, as follows: *Shoemaker v. Toyota Motor North America, Inc., et al.*, Case No. 1:20-cv-04381-WFK-CLP (E.D.N.Y.); *Zuo v. Toyota Motor North America, Inc., et al.*, Case No. 1:20-cv-04624-WFK-CLP (E.D.N.Y.); *Tordjman v. Toyota Motor North America, Inc., et al.*, Case No. 1:20-cv-04628-WFK-CLP (E.D.N.Y.).

II. THE COURT SHOULD APPOINT THE PROPOSED CLASS COUNSEL AS INTERIM CLASS COUNSEL

As detailed in Plaintiffs' first Motion, Plaintiffs respectfully submit the Court should appoint the Proposed Class Counsel as interim class counsel to best protect the interests of the Classes. This Motion does not affect the grounds for granting the relief requested set out in the first Motion, i.e., the appointment of attorneys from Beasley Allen as co-lead interim class counsel, and the appointment of attorneys from Finkelstein & Krinsk, Spector Roseman and Wolf Haldenstein to the PSC. Accordingly, Plaintiffs hereby incorporate by reference the grounds for the first Motion and accompanying papers (ECF Nos. 48 and 49) to the extent it is consistent with the relief requested in this Motion.

In this Motion, Plaintiffs seek the appointment of Hagens Berman, specifically Thomas E. Loeser and Jerrod C. Patterson, to the PSC to help advance the interests of the Classes. Hagens Berman, and specifically Messrs. Loeser and Patterson, are experienced in prosecuting class actions and complex litigation, knowledgeable of the applicable law, and will commit the resources necessary to represent the Classes. Hagens Berman is a nationally recognized class action and complex litigation firm known for representing plaintiffs in complex cases across the country, including automotive litigations such as *In re General Motors LLC Ignition Switch Litigation* and *In re Toyota Motor Co. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*. See Miles Declaration, Exhibit D (Hagens Berman's firm resume).

Mr. Loeser, specifically, has extensive experience in complex consumer-fraud MDLs, including auto-defect cases and, unique in the plaintiffs' bar, he has investigated and prosecuted complex criminal cases on behalf of the United States. He is willing and able to make a ***personal commitment*** of all necessary time and can pledge the extensive human and financial resources of Hagens Berman to advance the interests of the victim class. Mr. Loeser is an *AV Rated Super*

Lawyer and has obtained judgments in cases that have returned billions of dollars to millions of consumers and more than \$100 million to the government. Some of Mr. Loeser's representative cases include *Volkswagen/Bosch Emissions Defect Litigation*, *Tesla Enhanced Autopilot Delay Litigation*, *Honda Civic Hybrid Litigation*, and *Hyundai MPG Litigation*. Mr. Patterson also has significant experience in complex consumer fraud cases, particularly auto fraud cases. Mr. Patterson currently represents plaintiffs in several cases across the country, including *Bledsoe v. FCA US LLC*, 16-cv-14024 (E.D. Mich.), *Raymo v. FCA US LLC*, 17-cv-12168 (E.D. Mich.), six separate cases involving a defective CP4 high-injection fuel pump manufactured by Bosch (*see, e.g., Chapman v. General Motors*, 19-cv-12333 (E.D. Mich.)), and two other cases against Honda and Subaru involving the same defective Denso pump at issue in this litigation. Mr. Patterson also served as a federal prosecutor for over nine years, with experience in investigating complex cases and trying them to verdicts. *See id.*

Further, Hagens Berman has ample resources to commit to this litigation, including 70+ partners and associates with class action expertise and a full support staff comprised of IT specialists, paralegals, assistants, and law clerks.

III. CONCLUSION

For the reasons set forth above and in the first Motion, Plaintiffs respectfully request that this Court appoint the Proposed Class Counsel as interim class counsel pursuant to Federal Rule of Civil Procedure 23(g)(3).

Additionally, Toyota Motor North America, Inc. and Denso International America, Inc.³ represent they take no position on this Motion. Plaintiffs therefore request that the Court take the matter under submission at this time.

³ Plaintiffs are in the process of serving defendants Toyota Motor Corporation and Denso Corporation, both of which are located in Japan.

DATED: September 30, 2020

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